

March 5, 2021

Judiciary Committee  
Connecticut General Assembly

***Re: HB No. 6321 (Raised)  
An Act Concerning Adoption and Implementation  
of the Connecticut Parentage Act***

Honorable Members of the Judiciary Committee:

**I write in support of HB No. 6321, An Act Concerning Adoption and Implementation of the Connecticut Parentage Act, with limited amendments to the *de facto* parenting provisions recommended by the Family Law Section of the Connecticut Bar Association.**

I am a partner at the Stamford law firm Wofsey, Rosen, Kweskin & Kuriansky, LLP, where I have practiced for 28 years. My practice is focused in the area of family law. I am a member of the Family Law Section of the American Bar Association, including its Assisted Reproductive Technology Committee, as well as the Family Law Section of the Connecticut Bar Association. I recently served on a subcommittee of the Family Law Section of the CBA tasked with studying the proposed Connecticut Parentage Act.

Background:

When I was born, during the Kennedy administration, the traditional nuclear family – children living with biological, heterosexual, married parents both in their first marriage – was the norm and the prevailing family ideal. Much has changed since that time. Now, the traditional nuclear family is the exception, not the rule. According to The Pew Research Center, in 1960, 73% of American children were living in traditional nuclear families. By 2014, that number had fallen to 46%.

What happened? For one, the American family has become increasingly fluid and fragmented. There are many causes, among them, an increase in the divorce rate; increases in the rates of remarriage and cohabitation; more blended families; more single-parent families; decreases in fertility rates; smaller families; an increase in mothers as primary family breadwinners; the legalization and normalization of same-gender marriages; and the ascendancy of assisted reproductive technologies such as *in vitro* fertilization, artificial insemination and surrogacy. As a result, the people raising and nurturing our children today often include various combinations of single parents, stepparents, cohabitants, same-gender couples, grandparents, aunts and uncles; as well as the intended parents, and their spouses, of children born of assisted

reproductive technologies, in addition to biological mothers and fathers in first marriages. The law needs to catch up.

The Connecticut Parentage Act represents a comprehensive modernization of Connecticut's parentage laws. The Act is based on the 2017 revision of Uniform Parentage Act ("UPA"), which was first promulgated in 1973. It is comprehensive. It recognizes and governs various pathways to parentage, such as by genetic parentage, adjudication of parentage, formal acknowledgement of parentage, statutory presumptions ("presumed parentage"), functional parentage ("*de facto* parentage"), and assisted reproductive technologies such as artificial insemination and surrogacy. I join in CBA Family Law Section's support of the Act, with limited amendments to the Section 38, *De Facto* parentage.

#### Section 38, *De Facto* Parentage:

With respect to Section 38(a)(1), the one-year period for residing with the child as a member of the child's household is too short. The CBA's Family Law Section has recommended four years, which is more reasonable and appropriately limits the application of *de facto* parentage. I note that this is a presumptive standard and that this section would authorize a court to accept a shorter period upon a finding of good cause.

The Family Law Section's proposed modifications to Section 39(a)(3) would require a showing that a person seeking to be adjudicated a *de facto* parent has supported the child financially since ceasing to reside in the same household if that person is not currently residing in the same household with the child. This is a "money`-where-your-mouth-is" common sense limitation on *de facto parentage* that is in the best interest of the child.

With respect to Section 38(a)(6), requiring that the other parent of the child not only fostered and supported the bonded and dependent relationship with the potential *de facto* parent, *but also that the other parent held the possible de facto parent out as a parent of the child*, is appropriate in order to respect the prerogatives of an existing parent, and insure that *de facto* parentage is conferred sparingly, and only in the most compelling circumstances with the least chance of disruption in the life of the child.

The Family Law Section's proposed new Section 38(a)(8), would appropriately require the court to take into account whether the child, provided he or she is of sufficient age, held the possible *de facto* parent out as their parent. Here again, the goal is to see to it that *de facto* parentage is conferred only in the most compelling circumstances with the least chance of disruption in the life of the child.

#### Assisted Reproduction and Surrogacy:

The Act also modernizes Connecticut's law of parentage through assisted reproduction and surrogacy. It ensures that the parentage of all children born through assisted reproductive technologies shall be clearly established, regardless of the marital status, gender or sexual orientation of their parents. It establishes protocols providing children with access to medical information, and in some cases identifying information, about their sperm and egg donors.

It also provides clear standards for establishing the parentage of children born through surrogacy. These standards that are designed to safeguard the interests of all parties to the surrogacy process: surrogates, intended parents, and children. The Act protects surrogates, intended parents and clinics by establishing terms that must be included in surrogacy contracts, terms that may be included, terms that may not be included, and the circumstances under which a surrogacy contract can be terminated. It insures that surrogates undergo a proper medical evaluation before entering into a surrogacy contract, and that surrogates and intended parents undergo mental health evaluations and have had the benefit of independent legal representation before entering into surrogacy contracts. These are just some examples of the Act's many important provisions relating to assisted reproduction and surrogacy.

Thank you for your consideration of this legislation, which represents an important step forward in modernizing Connecticut's law of parentage for the benefit of our children and those who are doing the loving, unrelenting and hard, but rewarding, work of parenting them.

Very truly yours,

---

Eric M. Higgins  
Stamford, CT